

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD ANTHONY ORTIZ,

Defendant.

Case No. CR12-62-RSL

ORDER DENYING
DEFENDANT'S MOTION
FOR COMPASSIONATE
RELEASE

This matter comes before the Court on defendant's "Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(1)(A)(i) and for Appointment of Counsel" (Dkt. # 1557). Having considered the motion and the record contained herein, the Court finds as follows:

I. Procedural Motions

As an initial matter, the Court finds compelling reasons justify sealing defendant's records containing sensitive information (Dkt. # 1568). The government's motion to seal (Dkt. # 1567) is accordingly GRANTED.

II. Background

Defendant is a 43-year-old inmate currently incarcerated at Sheridan Federal Correctional Institution ("Sheridan FCI"). *See Find an Inmate*, Fed. Bureau of Prisons, <https://www.bop.gov/inmateloc/> (last visited Jan. 23, 2023). On May 16, 2013, defendant was found guilty of conspiracy to distribute heroin and/or methamphetamine in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846, as well as possession of heroin with intent to distribute in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B), and 846. Dkt. # 954; Dkt.

ORDER DENYING DEFENDANT'S MOTION FOR
COMPASSIONATE RELEASE - 1

1196. On December 13, 2013, this Court sentenced defendant to a term of 180 months of imprisonment and a five-year term of supervised release. Dkt. # 1196 at 2-3. Defendant is currently scheduled for release from the custody of the Federal Bureau of Prisons (“BOP”) on February 18, 2025. *See Find an Inmate*, Fed. Bureau of Prisons, <https://www.bop.gov/inmateloc/> (last visited Jan. 23, 2023).

III. Legal Framework

“A federal court generally ‘may not modify a term of imprisonment once it has been imposed.’” *Dillon v. United States*, 560 U.S. 817, 819 (2010) (quoting 18 U.S.C. § 3582(c)). Congress has provided an exception to that rule, known as compassionate release, which allows the Court to reduce a sentence for “extraordinary and compelling reasons.” 18 U.S.C. § 3582(c); *see also United States v. Aruda*, 993 F.3d 797, 799 (9th Cir. 2021); *United States v. Keller*, 2 F.4th 1278, 1281 (9th Cir. 2021). The First Step Act of 2018 amended the procedural requirements governing compassionate release. Prior to the First Step Act’s passage, only the Director of the BOP could bring motions for compassionate release. Now, under the First Step Act, defendants are permitted to directly petition the Court for compassionate release. As amended, 18 U.S.C. § 3582(c)(1)(A) states in relevant part:

(c) Modification of an imposed term of imprisonment.—The court may not modify a term of imprisonment once it has been imposed except that—

(1) in any case—

(A) the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that—

(i) extraordinary and compelling reasons warrant such a reduction; . . .

(ii) . . .

and that such a reduction is consistent with the applicable policy statements issued by the Sentencing Commission[.]

Before passing the First Step Act, Congress directed the Sentencing Commission to promulgate a policy statement defining “extraordinary and compelling reasons” in the compassionate release context. *See* 28 U.S.C. § 994(t). In doing so, Congress instructed that “[r]ehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.” *Id.* The Sentencing Commission implemented this directive from Congress with a policy statement—U.S.S.G. § 1B1.13. In relevant part, the policy statement provides,

**Reduction in Term of Imprisonment Under 18 U.S.C. § 3582(c)(1)(A)
(Policy Statement)**

Upon motion of the Director of the Bureau of Prisons under 18 U.S.C. § 3582(c)(1)(A), the court may reduce a term of imprisonment (and may impose a term of supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment) if, after considering the factors set forth in 18 U.S.C. § 3553(a), to the extent they are applicable, the court determines that—

(1)(A) Extraordinary and compelling reasons warrant the reduction;

. . .

(2) The defendant is not a danger to the safety of any other person or to the community, as provided in 18 U.S.C. § 3142(g); and

(3) The reduction is consistent with this policy statement.

Commentary

Application Notes:

1. Extraordinary and Compelling Reasons.—Provided the defendant meets the requirements of subdivision (2),

extraordinary and compelling reasons exist under any of the circumstances set forth below:

(A) Medical Condition of the Defendant—

- (i) The defendant is suffering from a terminal illness (i.e., a serious and advanced illness with an end of life trajectory). A specific prognosis of life expectancy (i.e., a probability of death within a specific time period) is not required. Examples include metastatic solid-tumor cancer, amyotrophic lateral sclerosis (ALS), end-stage organ disease, and advanced dementia.
- (ii) The defendant is—
 - (I) suffering from a serious physical or medical condition,
 - (II) suffering from a serious functional or cognitive impairment, or
 - (III) experiencing deteriorating physical or mental health because of the aging process, that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover.

(B) Age of the Defendant—The defendant (i) is at least 65 years old; (ii) is experiencing a serious deterioration in physical or mental health because of the aging process; and (iii) has served at least 10 years or 75 percent of his or her term of imprisonment, whichever is less.

(C) Family Circumstances—

- (i) The death or incapacitation of the defendant's only family member capable of caring for the defendant's minor child or minor children.
- (ii) The incapacitation of the defendant's spouse or registered partner when the defendant would be the only available caregiver for the spouse or registered partner

(D) Other Reasons—As determined by the Director of the Bureau of Prisons, there exists in the defendant's case an

extraordinary and compelling reason other than, or in combination with, the reasons described in subdivisions (A) through (C).

2. Foreseeability of Extraordinary and Compelling Reasons.—

For purposes of this policy statement, an extraordinary and compelling reason need not have been unforeseen at the time of sentencing in order to warrant a reduction in the term of imprisonment. Therefore, the fact that an extraordinary and compelling reason reasonably could have been known or anticipated by the sentencing court does not preclude consideration for a reduction under this policy statement.

3. Rehabilitation of the Defendant.—Pursuant to 28 U.S.C.

§ 994(t), rehabilitation of the defendant is not, by itself, an extraordinary and compelling reason for purposes of this policy statement.

....

U.S.S.G. § 1B1.13. The Ninth Circuit has held that U.S.S.G. § 1B1.13 “is not an ‘applicable policy statement’ for 18 U.S.C. § 3582(c)(1)(A) motions filed by a defendant.” *Aruda*, 993 F.3d at 798, 802. The Court may consider U.S.S.G. § 1B1.13 in exercising its discretion, but it is not binding. *Id.*

IV. Defendant’s Characteristics

In deciding whether to grant defendant’s motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A), the Court first considers whether defendant has met the statutory exhaustion requirement. If the exhaustion requirement is met, the Court turns to three substantive considerations that govern compassionate release analysis: (1) whether “extraordinary and compelling reasons warrant such a reduction,” (2) whether a reduction would be “consistent with *applicable* policy statements issued by the Sentencing Commission,” and (3) the sentencing factors set forth in 18 U.S.C. § 3553(a). *See United States v. Wright*, 46 F.4th 938, 945 (9th Cir. 2022) (emphasis in original) (internal citations and quotations omitted). Significantly, the second requirement does not apply in this case, as there is currently no policy statement from the Sentencing Commission that is “applicable” to compassionate release motions filed by a defendant (rather than by the BOP Director). *Id.* at 946. “Although a district

1 court must conclude that a defendant satisfies all three predicates before granting a motion for
2 compassionate release, it may deny compassionate release if a defendant fails to satisfy any of
3 these grounds.” *Id.*

4 **A. Exhaustion**

5 The Court first determines whether defendant has met the statutory exhaustion
6 requirement. Where, as here, the Director of the BOP has not filed the motion on defendant’s
7 behalf, the Court may consider the motion only if defendant has requested that the BOP make
8 such a motion and either (i) defendant has “fully exhausted all administrative rights to appeal a
9 failure of the [BOP] to bring a motion on the defendant’s behalf,” or (ii) 30 days have elapsed
10 since the “warden of the defendant’s facility” received a compassionate-release request from
11 defendant. *Keller*, 2 F.4th at 1281 (quoting 18 U.S.C. § 3582(c)(1)(A)). The Ninth Circuit has
12 held that “§ 3582(c)(1)(A)’s administrative exhaustion requirement imposes a mandatory claim-
13 processing rule that must be enforced when properly invoked,” rather than a rule that deprives
14 this Court of subject matter jurisdiction. *Id.* at 1282. In other words, if raised by the government
15 in opposition to a motion for compassionate release, the exhaustion requirement must be
16 enforced, but if the government does not raise the exhaustion requirement, it may be waived as a
17 ground for opposing compassionate release.

18 Exhaustion in the compassionate release context requires that the request to the warden
19 identify “[t]he extraordinary or compelling circumstances that the inmate believes warrant
20 consideration.” *See* 28 C.F.R. § 571.61(a)(1) (regulation setting for the procedure for submitting
21 a § 3582(c)(1)(A) request to the warden). However, courts have not uniformly agreed on the
22 degree of specificity required. *See United States v. Escobar*, No. CR18-5236-LAB, 2021 WL
23 364163, at *1 (S.D. Cal. Feb. 3, 2021) (comparing cases).

24 Defendant claims that he submitted a request for compassionate release to the Warden at
25 Sheridan FCI on July 2, 2022. *See* Dkt. # 1557 at 12. However, he provides no documentation of
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1 this request.¹ Defendant submitted a second request for compassionate release on August 9,
 2 2022, which was received by the Warden on September 13, 2022. Dkt. # 1557-1 at 41. In this
 3 second request, defendant notes that he is basing his request for compassionate release, in part,
 4 on his “right to be housed in a humane and safe environment.” *Id.* He encourages the Warden to
 5 “interview” him to get more information on the “specific facts” underlying his request. *Id.* This
 6 identification of the “extraordinary and compelling circumstances” on which defendant now
 7 bases his motion is notably vague. However, the government’s attempt to raise the exhaustion
 8 requirement as to this issue is similarly vague. *See* Dkt. # 1566 at 11 (simply stating that
 9 defendant “fails to establish exhaustion” in the conclusion of the brief). Thus, it is not clear that
 10 the government has “properly” raised an objection in its response.

11 Defendant’s claim that the BOP has wrongfully denied him earned time credits earned
 12 under the First Step Act is not mentioned once in his request to the Warden. *See* Dkt. # 1557-1
 13 at 41. Thus, that claim has not been exhausted.²

14 Defendant’s compassionate release request is therefore denied to the extent it is based on
 15 unexhausted arguments. However, because exhaustion requirements are not jurisdictional, and it
 16 is not clear that the government has “properly” raised an objection, the Court examines whether
 17 defendant has raised an “extraordinary and compelling circumstance” justifying his release.

18 **B. Extraordinary and Compelling Circumstances**

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 21 ¹ The Court also notes that this was 18 days *before* the alleged July 20, 2022 incident on which
 defendant partially bases his motion. *See id.* at 2; Dkt. # 1568.

22 ² The government notes that the BOP has an established Administrative Remedy Process for
 inmates wanting to challenge “any aspect of his/her own confinement,” *see* 28 C.F.R. § 542.10(a),
 23 including challenges to BOP’s computation of an inmate’s sentence, *see United States v. Wilson*, 503
 U.S. 329, 335 (1992) (explaining that prisoners may be “able to seek judicial review of [their sentence]
 24 computations after exhausting their administrative remedies”). *See* Dkt. # 1566 at 8 n.3. Defendant
 25 appears to recognize that he has failed to meet these administrative exhaustion requirements, *see* Dkt. #
 1557 at 9, but argues that because he is being denied his earned time credits pursuant to a “formal
 26 policy,” the exhaustion requirement should be waived on futility grounds, *id.* (citing *Ward v. Chavez*,
 678 F.3d 1042, 1046 (9th Cir. 2012)). The Court need not reach this argument as it finds defendant has
 27 failed to exhaust his argument even under the less stringent requirements imposed by the compassionate
 28 release statute.

1 It is defendant's burden to establish an extraordinary and compelling reason warranting
 2 compassionate release. *See Wright*, 46 F.4th at 951. Here, defendant raises four arguments in
 3 support of his motion for compassionate release. He argues that (1) the BOP has not taken
 4 "reasonable steps" to "prevent physical violence" at Sheridan FCI, Dkt. # 1557 at 2; (2) BOP
 5 staff have mishandled his property, *id.* at 3; (3) the BOP has wrongfully denied him First Step
 6 Act earned time credits, *id.* at 8-10; and (4) he has made "great strides" towards rehabilitation,
 7 *id.* at 10-11.

8 The government argues that because defendant's claims revolve around his alleged
 9 mistreatment at Sheridan FCI, they should be brought pursuant to a 28 U.S.C. § 2241 petition
 10 and/or as a *Bivens* action.³ Dkt. # 1566 at 8. Accordingly, the government contends that this case
 11 should be dismissed on the basis of improper venue, as § 2241 actions must be brought in the
 12 petitioner's "custodial court," *Hernandez v. Campbell*, 204 F.3d 861, 864 (9th Cir. 2000), and
 13 *Bivens* actions must be brought in the district in which the facts giving rise to the claim took
 14 place, *see Stafford v. Briggs*, 444 U.S. 527, 544 (1980) (holding that claims against government
 15 officials in their individual capacities are governed by 28 U.S.C. § 1391(b)). *Id.* at 9. As
 16 Sheridan FCI is located in the District of Oregon, that would be the proper venue for either a
 17 § 2241 petition or a *Bivens*-style claim. *Id.*

22 ³ To the extent defendant brings challenges to conditions of confinement, these should be
 23 brought pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S.
 24 388 (1971), the "federal analog" to 42 U.S.C. § 1983, *see Hartman v. Moore*, 547 U.S. 250, 254 n.2
 25 (2006). To the extent defendant challenges to the "manner, location, or conditions of [his] sentence's
 26 execution," his claims may be brought pursuant to 28 U.S.C. § 2241, *see Hernandez*, 204 F.3d at 864;
 27 *Zavala v. Ives*, 785 F.3d 367, 370 n.3 (9th Cir. 2015) (explaining that a "defendant may . . . challenge
 28 BOP's calculation [of his sentence]—in other words, the execution of the sentence—by filing a petition
 for a writ of habeas corpus under 28 U.S.C. § 2241"); *see also Nettles v. Grounds*, 830 F.3d 922, 931 &
 n.6 (9th Cir. 2016) (holding that if a state prisoner's claim does not lie at "the core of habeas corpus," it
 may not be brought in habeas corpus but must be brought, "if at all," under § 1983, but declining to
 address how that standard "applies to relief sought by prisoners in federal custody").

1 While the Court agrees that defendant's claims are likely better suited to a civil rights
2 action or § 2241 petition, there appears to be no barrier to considering his claims under the
3 compassionate release framework.⁴

4 To the extent that defendant argues for compassionate release based on the general
5 conditions of confinement at Sheridan FCI, "many courts [considering compassionate release
6 motions] have rejected arguments regarding general conditions that affect inmates
7 indiscriminately throughout the prison." *United States v. Cruz-Cruz*, No. CR13-49-RSL, 2021
8 WL 1968389, at *4 (W.D. Wash. May 17, 2021) (collecting cases). While courts in this district
9 have taken harsh conditions of confinement into consideration when ruling on motions for
10 compassionate release, they have done so when analyzing the § 3553(a) factors, not for the

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13 ⁴ Several circuits have concluded that allowing defendants to raise arguments based on changes
14 in sentencing law in the compassionate release context creates tension with the "habeas-channeling" rule
15 put forth by the Supreme Court. *See United States v. McCall*, 56 F.4th 1048 (6th Cir. Dec. 22, 2022) (en
16 banc); *United States v. Jenkins*, 50 F.4th 1185, 1202 (D.C. Cir. 2022) (concluding that "[t]he habeas-
17 channeling rule of *Preiser* independently forecloses using compassionate release to correct sentencing
errors"); *United States v. Escajeda*, ___ F.4th ___, 2023 WL 195798 (5th Cir. Jan. 17, 2023); *United States*
v. Crandall, 25 F.4th 582, 586 (8th Cir. 2022); *United States v. Thacker*, 4 F.4th 569 (7th Cir. 2021);
United States v. King, 40 F.4th 594, 595 (7th Cir. 2022).

18 However, the Ninth Circuit has come to the opposite conclusion, concluding that "Congress has
19 only placed two limitations directly on extraordinary and compelling reasons: the requirement that
20 district courts are bound by the Sentencing Commission's policy statement, which does not apply here,
21 and the requirement that '[r]ehabilitation . . . alone' is not extraordinary and compelling." *United States*
v. Chen, 48 F.4th 1092, 1098 (9th Cir. 2022). Indeed, in *Chen*, the Ninth Circuit explicitly considered
22 and rejected the argument that where habeas provides a mechanism to obtain the relief sought, a
23 "defendant should not be able to bypass [habeas] through compassionate release." *Id.* at 1101 (rejecting
the argument that defendants "should not be allowed to move for a sentence reduction under Section
3582(c)(1)(A) because Section 2255 already provides a mechanism to challenge a sentence based on
nonretroactive changes in sentencing law").

24 Accordingly, "the determination of what constitutes extraordinary and compelling reasons for
25 sentence reduction lies squarely within the district court's discretion." *Id.* at 1095; *see also Aruda*, 993
26 F.3d at 801 ("[T]here is as of now no 'applicable' policy statement governing compassionate-release
27 motions filed by defendants under the recently amended § 3582(c)(1)(A), and as a result, district courts
are 'empowered . . . to consider *any* extraordinary and compelling reason for release that a defendant
28 might raise.'" (quoting *United States v. McCoy*, 981 F.3d 271, 284 (4th Cir. 2020) (emphasis in
original)).

1 purpose of determining whether a defendant established the threshold extraordinary and
2 compelling circumstances. *Cruz-Cruz*, 2021 WL 1968389, at *4.

3 Defendant's individual claims regarding his experiences at Sheridan FCI and the
4 calculation of his earned time credits do not constitute "extraordinary and compelling"
5 circumstances warranting the relief requested here (converting defendant's sentence to time
6 served and six months of home confinement on supervised release). Dkt. # 1557 at 12. As the
7 Court notes above, defendant's claims would be more appropriately remedied through a § 2241
8 petition and/or a *Bivens* action, and he is free to bring those claims in the correct venue.⁵

9 Finally, defendant also argues that "extraordinary and compelling circumstances" are
10 established by his "great efforts at rehabilitation," specifically the forty-one classes he has
11 completed while incarcerated. Dkt. # 1557 at 11. While the Court acknowledges defendant's
12 efforts, "[r]ehabilitation of the defendant alone shall not be considered an extraordinary and
13 compelling reason." 28 U.S.C. § 994(t).

14 **C. § 3553(a) Factors**

15 Even if defendant could establish "extraordinary and compelling" reasons warranting
16 compassionate release, analysis of the factors listed in § 3553(a) provides additional grounds for
17 denying his motion. The "nature and circumstances of the offense and the history and
18 characteristics of the defendant" alone militate against granting compassionate release here. 18
19 U.S.C. § 3553(a)(1). Defendant was a key member in a large and dangerous drug conspiracy,
20 and he has a lengthy criminal history (including convictions for violent and firearms-related
21 offenses). Dkt. # 1187. Even more concerning, defendant committed the instant offense while on
22 federal supervised release after pleading guilty to being a felon in possession of a firearm. *Id.*
23 Additionally, evidence presented at defendant's trial demonstrated that while he was serving his
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26 ⁵ The Court notes that defendant is familiar with these vehicles, as he previously filed a § 2241
27 petition in the District of Oregon, challenging the conditions at Sheridan FCI during the COVID-19
28 related lockdown. *See Ortiz v. Hendrix*, No. C21-1643-SB (D. Or. Nov. 10, 2021).

1 federal sentence on the felon in possession charge, he was actively planning to re-join the drug
2 conspiracy for which he is currently incarcerated. *Id.* at 8.

3 Thus, a reduction in sentence under 18 U.S.C. § 3582(c)(1)(A)(i) would not be consistent
4 with the Court’s analysis of the factors listed in 18 U.S.C. § 3553(a). The Court DENIES
5 defendant’s motion for compassionate release.

6 **V. Request to Transfer to District of Oregon**

7 Defendant, perhaps recognizing that compassionate release is not the best vehicle for his
8 claims, argues that if the Court treats his instant motion “as a petition for a writ of habeas
9 corpus,” it should transfer the case to the “District of Oregon under 28 U.S.C. Section 1631.”
10 Dkt. # 1557 at 5. Because the Court has construed defendant’s motion as one for compassionate
11 release and denied the motion on the merits, the Court denies defendant’s request to transfer the
12 motion to the District of Oregon.⁶

13 **VI. Appointment of Counsel**

14 The Court also denies defendant’s request for appointment of counsel. The Ninth Circuit
15 has held that defendants do not have a Sixth Amendment right to counsel when bringing a
16 § 3582(c) motion. *See United States v. Townsend*, 98 F.3d 510, 511-13 (9th Cir. 1996). Thus,
17 “the decision whether to appoint counsel rests in the discretion of the district court.” *Id.* at 513
18 (quoting *United States v. Whitebird*, 55 F.3d 1007, 1011 (5th Cir. 1995)). Generally, district
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20 ⁶ The Court also notes that 28 U.S.C. § 1631 provides “[w]henever a civil action is filed . . . and
21 that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer
22 such action or appeal to any other court . . . in which the action or appeal could have been brought at the
23 time it was filed.” Thus, the plain language of the statute makes clear that the power to transfer is limited
24 to “civil actions.” A motion for compassionate release is brought under Title 18 of the United States
25 Code, the primary federal criminal code, and is docketed with the sentencing. *See United States v. Ono*,
26 72 F.3d 101, 102 (9th Cir. 1995) (explaining that “[b]ecause the purpose of a § 3582 motion is
27 resentencing, a motion under § 3582(c) is undoubtedly a ‘step in the criminal case.’”). Accordingly, the
28 Court finds that unlike petitions brought under Title 28 of the United States Code (which include § 2241
petitions), a motion for compassionate release is not a “civil action” and does not fall under § 1631. *Cf.*
Cruz-Aguilera v. INS, 245 F.3d 1070, 1074 (9th Cir. 2001) (construing petitioner’s petition for review as
a petition for habeas corpus and transferring the petition to the district court with jurisdiction to hear
petitioner’s claims pursuant to § 1631); *Arreola-Arreola v. Ashcroft*, 383 F.3d 956 (9th Cir. 2004)
(same).

1 courts only appoint counsel in “exceptional circumstances.” *Agyeman v. Corr. Corp. of Am.*, 390
2 F.3d 1101, 1103 (9th Cir. 2004). “A finding of the exceptional circumstances of the plaintiff
3 seeking assistance requires at least an evaluation of the likelihood of the plaintiff’s success on
4 the merits and an evaluation of the plaintiff’s ability to articulate his claims ‘in light of the
5 complexity of the legal issues involved.’” *Id.* (quoting *Wilborn v. Escalderon*, 789 F.2d 1328,
6 1331 (9th Cir. 1986)). Here, the Court has found defendant cannot succeed on the merits. Thus,
7 the case does not present exceptional circumstances warranting the appointment of counsel.

8 “Furthermore, there is no statute of limitations, nor is there a limit on the number of
9 requests an inmate can make under 18 U.S.C. 3582. Thus, it is rare that there exist
10 circumstances necessitating the appointment of counsel to request compassionate release.”
11 *United States v. Parlor*, No. CR18-203-BLW, 2022 WL 1538698, at *1 (D. Idaho May 16,
12 2022).

13 VII. Conclusion

14 For all the foregoing reasons, defendant’s motion for compassionate release (Dkt. # 1557)
15 is DENIED. The government’s motion to seal (Dkt. # 1567) is GRANTED.

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17 IT IS SO ORDERED.

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19 DATED this 6th day of February, 2023.

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22 Robert S. Lasnik
23 United States District Judge
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